

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

BLAIR DOUGLASS,

Plaintiff,

v.

DESTINATION XL GROUP, INC.,

Defendant.

Civil Action No. 2:23-1757

(Removed from the Court of Common
Pleas of Allegheny County, PA,
Docket No. GD-23-010371)

NOTICE OF REMOVAL

Defendant Destination XL Group, Inc. (“Defendant”), by and through its undersigned counsel, hereby removes this action from the Court of Common Pleas of Allegheny County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, and in support thereof, Defendant states as follows:

1. On September 5, 2023, Plaintiff Blair Douglass (“Plaintiff”) commenced this civil action against Defendant by filing a Complaint in the Court of Common Pleas of Allegheny County, Pennsylvania (the “Complaint”), captioned as *Blair Douglass v. Destination XL Group, Inc.*, at docket number GD-23-010371 (hereinafter, the “State Court Action”).

2. Defendant was served with the Complaint and Summons in the State Court Action on September 19, 2023. Attached as **Exhibit 1** is a true and correct copy of the Complaint and Summons served on Defendant in the State Court Action.

3. For purposes of removal, except for service of the Complaint and Summons, no other process, pleadings or orders have been served upon Defendant. *See* 28 U.S.C. § 1446(a).

4. Plaintiff's Complaint asserts an alleged violation of Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12181 *et seq.* See generally **Exhibit 1**.

Removal is Timely.

5. The Complaint was served on Defendant on September 19, 2023. This Notice is being filed with the United States District Court for the Western District of Pennsylvania within 30 days after receipt of service of the Complaint filed in the State Court Action. See 28 U.S.C. § 1446(b).

Venue is Proper.

6. The Court of Common Pleas of Allegheny County is located within the Western District of Pennsylvania. Therefore, venue is proper pursuant to 28 U.S.C. § 1441(a) because the action is being removed to the "district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1446(a).

Federal Question Jurisdiction Exists.

7. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, and this case is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(a), in that it presents a claim "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

8. Here, Plaintiff alleges that Defendant violated Title III of the ADA, 42 U.S.C. § 12181 *et seq.* See generally **Exhibit 1**.

9. Based upon the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

Other Removal Requirements Are Met.

10. A Notice of Filing of this Notice of Removal is being filed with the Court of Common Pleas of Allegheny County, Pennsylvania in accordance with 28 U.S.C. § 1446(d) and is attached hereto (without exhibits) as **Exhibit 2**.

11. A copy of this Notice is being served upon Plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Destination XL Group, Inc. hereby removes this action from the Court of Common Pleas of Allegheny County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania.

Dated: October 10, 2023

Respectfully submitted,

/s/ Roy W. Arnold

Roy W. Arnold, Pa I.D No. 70544

Shawna J. Henry, Pa. I.D. No. 316881

BLANK ROME LLP

Union Trust Building

501 Grant Street, Suite 850

Pittsburgh, PA 15219

Phone: (412) 932-2800

roy.arnold@blankrome.com

shawna.henry@blankrome.com

Counsel for Defendant

Destination XL Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October 2023, a true and correct copy of the foregoing Notice of Removal was served by electronic mail and first-class United States mail postage pre-paid upon the following counsel of record:

Kevin W. Tucker, Esq.
Kevin J. Abramowicz, Esq.
Chandler Steiger, Esq.
Stephanie Moore, Esq.
East End Trial Group LLC
6901 Lynn Way, Suite 215
Pittsburgh, PA 15208
ktucker@eastendtrialgroup.com
kabramowicz@eastendtrialgroup.com
csteiger@eastendtrialgroup.com
smoore@eastendtrialgroup.com

/s/ Roy W. Arnold
Counsel for Defendant